

STATE OF CALIFORNIA
Energy Resources Conservation
And Development Commission

In the Matter of:)	Docket No. 97-AFC-1
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)	
The Application for Certification)	
For the High Desert Power Project [HDPP])	
)	
_____)	

**OPPOSITION TO MOTION OF APPLICANT [HDPP] AND MOTION TO
REOPEN EVIDENTIARY RECORD
AND HOLD ADDITIONAL EVIDENTIARY HEARING
FOR LIMITED PURPOSE**

Intervenor Gary Ledford hereby files this Opposition to Motion of Applicant HDPP and his own Motion to Reopen Evidentiary Record and Accept Additional Evidence into the record, including holding of an additional Public hearing, to provide additional testimony on the limited subjects of: (1) ERC Contracts (Air Quality), (2) VVWD Water Storage Agreement **[FOR 80 YEARS]**, (3) Legal Right to use the Project Site **[FOR 50 YEARS]**, (4) Dry Cooling as alternative, (5) JPL Scientific Study that 10 to 20 year draught is predicted, (6) State Water Resources Control Board Action on companion project and (7) the conduct of the Applicant in Elections of Public Officials, in a well orchestrated smear campaign.

This motion is in opposition to the Applicants Motion, to insure that evidentiary Materials are not allowed into the record unless there is a Public hearing and witnesses provided to be cross-examined on the documents to be presented. The Documents attached to Applicants Motion are objected to for the following reasons:

- A. **1. ERC Credits**, the documents are incomplete and various parts of the contracts have been redacted or witted out, so that the Public is not fully informed as to the full meaning of the contracts. In the specific case of the ERC Credits for the Air Base, the amount of the contract is in the Public arena and is fully discloseable. As to the other amounts, if the Applicant wants protection as to the amount, the contracts are nevertheless, subject to a witness testifying as to their authenticity and whether or not the amount of the Air Base Contract is

at least the same amount as the other contracts, insuring that it is a fair market value transaction.

- B. **2. VVWD Contract.** This contract is for a period of 80 years, 50 years longer than the environmental review done by the Energy Commission Staff. It proposes to allow the VVWD to use the pipelines and wells of the Applicants Power project, for its own use. This was never studied in the Environmental Review Process of the Energy Commission. The Committee has consistently stated that it would not approve a contract, that had provisions not studied and fully mitigated. This contract has a provision for the joint use of the stored water and the well fields and pipeline system and were not studied. Furthermore the commission has no regulatory control of VVWD to cease its operations if the terms of the contract are not complied with.
- C. **3. The Legal Right to the Project Site:** This is an Option Agreement, with many Exhibits, however none of the Exhibits are Attached, especially the lease. In order for the Public to comment it must have the right to review the entire exhibit. However it is noted that this Option is for 50 years, fully 20 years longer than the environmental review conducted by the Energy Commission. If the site is to be used for 50 years then the issue of water consumption needs to be fully studied for 50 years and not thirty. Witness need to be made available to testify in relation to concerns of regional water for the full-anticipated life of the project.
- D. **4. Dry Cooling as an Alternative:** Intervenor requests that the Testimony of Andy Welch relative to Dry Cooling be stricken from the record in its entirety for the following reasons:
1. Mr. Welch was not qualified as an expert witness on Dry Cooling;
 2. HDPP refused to provide any information to this Intervenor on Dry Cooling or its costs, in discovery requests, and in fact stated the reason was that it was secret. If it was secret then it is surely secret now. Any opinion that they have should be fully disregarded.

3. The testimony given does not state it is not feasible, it states that the 700 megawatt plant, on the hottest days of 112 degrees averaging no more than 8 to 10 days per year would be reduced to as low as 630 megawatts. What Mr. Welch does not tell the commission is that it is on those hot days that they make the most money, \$2.00 a Kilowatt, instead of \$.03.

Intervenor Motion to Reopen the Proceedings and taking of evidence and testimony, is based on the above issues and objections as well as the following:

- A. **5. New JPL Evidence:** Intervenor has review new evidence that JPL Laboratories in Pasadena, expects that a 10 to 20 year draught can be expected. If that is the case then the predications of a water banking program for 3 years, [even if it did work] would be fully inadequate. The ever precious water resources of the tax paying high desert residents cannot be put in competition with a power project that uses 100% of the water for consumption and none to recharge the overdrafted ground water basins. Attached hereto as Exhibit "A"
- B. **6. State Water Resources Control Board Action:** Intervenor attached as Exhibit A, to his comments on the Presiding Member Proposed Decision, a letter from the State Water Resources Control Board in a companion case, for the City of Victorville to purchase treated effluent for use at George has indefinitely put hearings on hold until the Supreme Court Rules as to the serious nature of the overdraft and the outcome **on parties property rights.** Intervenor requests this letter be made a part of the evidentiary record and that oral testimony be allowed on this issue, since the use of recycled water is included in the PMPD.
- B. **7. Conduct of the Applicant:** Intervenor requests that evidence of the Applicants conduct relative to the elections of the MWA Board members who voted to put in place a consumptive use ordinance that would equitable to treat the High Desert Power Project the same as all other producers and users in the Mojave Water Agency, were smeared with illegal mailings stating untruthful allegations and a telephone campaign that was fundamentally paid for by HDPP.

WHEREFORE, Intervenor respectfully requests that the Commission deny Applicants Motion, unless a fully noticed Public Hearing is scheduled in the Victorville area, and that full and complete copies of the proposed Exhibits are provided to the Public, including all Exhibits to the Exhibits and that appropriate witnesses are identified to place the exhibits in the record and that the witnesses are allowed to be cross-examined on the Exhibits; and;

That Applicants request to place the prepared testimony of Andy Welch in the record be denied, and;

That Intervenors Motion to reopen this proceeding for limited purpose of introducing evidence that scientists at JPL are predicating a 10 to 20 draught that would significantly change the studies conducted by Staff that a 3 year draught would be the worst case condition be granted, and;

That Intervenors Motion to reopen this proceeding for limited purpose of introducing evidence into the record that the California State Water Resources Control Board has determined:

" . . .that it would be most efficient to schedule a hearing sometime after the California Supreme Court issues a ruling in the Mojave River adjudication."

"Issues raised in the proceeding before the SWRCB could be resolved by the Supreme Court's ruling and new issues could arise once the Court has ruled."

The California Energy Commission should postpone any further hearings on this siting case until the California Supreme Court has ruled.

That Intervenors Motion to reopen this proceeding for the limited purpose of demonstrating the political power that such large projects have on local communities and that money and smear campaigns can result in illegal activities, be granted.

January 31, 2000

GARY A. LEDFORD
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STATE OF CALIFORNIA

Energy Resources Conservation
And Development Commission

In the Matter of:)	Docket No. 97-AFC-1
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)	
The Application for Certification)	PROOF OF SERVICE
For the High Desert Power Project [HDPP])	
_____)	

I Kathie Mergal declare that on _____, I deposited copies of the attached **O
OPPOSITION TO MOTION OF APPLICANT [HDPP] AND MOTION TO
REOPEN EVIDENTIARY RECORD AND HOLD ADDITIONAL
EVIDENTIARY HEARING FOR LIMITED PURPOSE**, in the United States mail
in Apple Valley California with first class postage thereon fully prepaid and addressed to the
following:

Signed original document plus 11 copies to the following address:

California Energy Commission
Docket Unit
1516 Ninth Street, MS 4
Sacramento, CA 95814

In addition to the documents sent to the Commission Docket Unit, individual copies of all
documents were sent to:

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Interested Organizations

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I declare under penalty of perjury that the foregoing is a true and correct.

Kathie Mergal